

# SENATE BILL REPORT

## SB 5131

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As Reported By Senate Committee On:  
Judiciary, March 2, 2005

**Title:** An act relating to firearms.

**Brief Description:** Revising provisions concerning possession of firearms by persons found not guilty by reason of insanity.

**Sponsors:** Senators Carrell, Mulliken, Kline, Swecker, Schoesler, Franklin, Benson, Kastama, Regala, Delvin, Kohl-Welles and Rasmussen.

**Brief History:**

**Committee Activity:** Judiciary: 1/25/05, 3/2/05 [DPS].

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### SENATE COMMITTEE ON JUDICIARY

**Majority Report:** That Substitute Senate Bill No. 5131 be substituted therefor, and the substitute bill do pass.

Signed by Senators Kline, Chair; Weinstein, Vice Chair; Johnson, Ranking Minority Member; Carrell, Esser, Hargrove, McCaslin and Rasmussen.

**Staff:** Aldo Melchiori (786-7439)

**Background:** Conviction of any felony and certain non-felonies results in the loss of a person's right to possess a firearm. Involuntary commitment for mental health treatment also results in the loss of the right to possess a firearm. The right to possess may only be restored by a court order after the person has met certain eligibility requirements.

For certain serious offenses, the right can never be restored. For other crimes, a period of crime-free time must pass after completion of the sentence before a person may apply for restoration of the right to possess a firearm.

A person who has been involuntarily committed for mental health treatment may apply for restoration of the right to possess a firearm upon discharge from the commitment. The person must show that he or she is no longer required to participate in inpatient treatment or to take medication, and must show by a preponderance of the evidence that the reasons for the commitment no longer exist and are not likely to recur.

A person who has been found not guilty by reason of insanity may or may not be involuntarily committed for mental health treatment, depending on whether the person is found to be a danger to others.

**Summary of Substitute Bill:** A verdict of not guilty by reason of insanity must be considered the same as a verdict of guilty for purposes of a person's right to possess a firearm. Information and records regarding involuntary commitment for mental health services are available to law enforcement and prosecuting attorneys only as necessary to enforce the

firearms possession statutes. Such a person must meet the eligibility requirements that would have applied had he or she been convicted of the crime.

An additional requirement is placed on a person who has been involuntarily committed for mental health treatment and is applying for restoration of his or her right to possess a firearm. If the record shows by a preponderance of the evidence that the person has been violent and is likely to be violent again, the person must show by clear, cogent and convincing evidence that he or she does not present a substantial danger to the safety of others.

**Substitute Bill Compared to Original Bill:** Provisions are added to provide access, by law enforcement and prosecuting attorneys, to information and records regarding involuntary commitment for mental health services only as necessary to enforce the firearms possession statutes.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** Those people that avoid criminal prosecution because of a successful insanity defense have committed serious crimes and are a danger to society. Even a person who has committed a weapons offense may be able to get their weapon back immediately following a successful not guilty because of insanity defense if they are not involuntarily committed. We can all agree that there are some people who should not possess firearms.

**Testimony Against:** It would be simpler to change the rule to "guilty by reason of insanity."

**Who Testified:** PRO: Senator Carrell, prime sponsor; Lt. Landy Black, City of Seattle Police.

CON: David Fanta.

Signed in, Unable to Testify & Submitted Written Testimony: PRO: Joe Waldron, CCRKBA, WAC, WSR&PA, GOAL.